IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 1373 OF 2005

Trimbak Saudagar Thite .... Appellant

Vs.

Kondiba Saudagar Thite (Deceased) & Others .... Respondents

Mr. P.J. Das for the Appellant.
Mr. A.M. Kulkarni for Respondent Nos. 1-A to 1-E.

CORAM : D.B. BHOSALE, J.
DATE : 4TH JULY, 2007

P.C.

1) This Second Appeal filed by the Plaintiff is directed against the judgments of the Courts below by which his suit has been partly decreed and his prayer seeking partition and separate possession of 3/4th share in the suit properties has been granted. The Appellant-plaintiff had filed the suit for declaration that he is the owner of the suit land and in the alternative for partition and separate possession of his 3/4th share in the suit properties. His main prayer for declaration has been rejected by the Courts below, holding that earlier there was no partition, as claimed by the Appellant-plaintiff, and that in the said partition the suit properties were allotted to his share. In

the

circumstances, his alternative prayer for partition and separate possession has been granted by the Appellate Court. Keeping that in view and considering the findings of fact recorded by the Courts below and as I find sufficient material on record to sustain these findings and considering that no substantial question of law is either involved or raised, this appeal fails and dismissed as such.

(D.B. BHOSALE, J.)